

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 16, 2016**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
James R. Hart, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Julie Strandlie, Mason District
Earl L. Flanagan, Mount Vernon District
Karen Keys-Gamarra, Sully District

ABSENT: Janyce N. Hedetniemi, Commissioner At-Large
Kenneth A. Lawrence, Providence District

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The meeting was called to order at 8:17 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Chairman Murphy MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SEA 84-P-129-04/PCA 84-P-114-04, ARDEN COURTS – FAIR OAKS OF FAIRFAX, VA LLC, TO A DATE CERTAIN OF SEPTEMBER 21, 2016.

Commissioner de la Fe seconded the motion, which carried by a vote 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.

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FSA-Y04-2-1 – WASHINGTON DC SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS, 3675 Centerview Drive

(Start Verbatim Transcript)

Commissioner Keys-Gamarra: Yes, thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S DETERMINATION FOR APPLICATION FSA-Y04-2-1, THAT THE PROPOSAL BY WASHINGTON DC SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS TO CONSTRUCT A ONE STORY BUILDING ADDITION TO AN EXISTING TELECOMMUNICATIONS CENTRAL OFFICE AND SWITCHING STATION LOCATED AT 3675 CENTERVIEW DRIVE IN CHANTILLY, VIRGINIA, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE

ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN" PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion to concur with the "feature shown" determination as articulated by the Commissioner, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-SP-023/2232-S15-5 – CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS: LITTLE LEAGUE, INC., FAIRFAX (Decision Only) (The public hearing on these applications was held on January 21, 2016)

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Since the following cases were in the Springfield District, Vice Chairman de la Fe assumed the chair.

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(Start Verbatim Transcript)

Commissioner Murphy: I have a decision only on an application Cellco Partnership d/b/a Verizon Wireless: Little League, Inc. of Fairfax County and it is SE 2015-SP-023 and 2232-S15-5. If you recall, we had a public hearing on this several months ago and there was a lot of citizen input and we appreciated that. It's to locate a 164-foot monopole on a parcel of land on Braddock Road in close proximity to a homeowners association and some single family detached homes. Since that time – and we deferred the public hearing a couple of times – we have met with the citizens and with the applicant, Supervisor Herrity got involved, I got involved, our Land Use Committee got involved. And since that time, as a result of the input from the citizens, we have relocated the proposed a 164-tall monopole to approximately 500 feet back from the Braddock Road entrance, instead of 240 feet back. This would help reduce the visibility of the monopole for the homeowners association, especially for residences along the southernmost portion of Ashley Road, which have reverse frontage lots on Braddock Road across from the subject site. There was reconfiguring of the driveway at the proposed site from the straight-in driveway to a dog-leg design to better camouflage the facility from the Braddock Road entrance.

The monopole was redesigned as a monopine to better blend in with the trees on the lot. These are all at the request of the citizens. And we resolved the issue as to whether a red marker light is required on top of the monopole, which it is not. We conducted at least two more balloon flying tests – and – at the point where the monopole would be located if approved. And one of the other points, which was probably the most sticky point that was raised by the citizens, and that was to take a look at the alternate sites that were suggested in the 2232 which is required by state law. And the state law requires that in the 2232 application the applicant address some alternate sites to see if there is a better site for the facility to be located. The applicant, in my opinion and in staff's opinion, did due diligence and examined each of the sites that was recommended, they looked at it, and I think some of the other sites that weren't in the staff report but that were brought up by the citizens in the many meetings that we had. As I explained to the citizens, the applicant feels that their site best addresses their needs and the alternate sites do not. I am required by law to make a motion on the application that was filed, and that is the application that we're hearing – we heard at the public hearing - and that we will hear again – we will vote again tonight. I concur with the staff and they've had this opinion, and I believe we have an addendum to the original staff report. And I concur with the staff that this is in fact in conformance with the Comprehensive Plan and I – and in conclusion – by Celco Partnership that it satisfies the criteria, as established in the 2232 of character location extent, as specified in Virginia Code Section 15.2-2232 as amended. Therefore, Mr. Chairman, with that I MOVE THAT THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION 2232-S15-5 SUBSTANTIALLY IN ACCORD WITH THE REVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Flanagan and Hart: Second.

Chairman de la Fe: Seconded by Commissioner Flanagan and Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.
Commissioners: Aye.

Chairman de la Fe: Opposed? The motion carries. Thank you very much.

Commissioner Murphy: Mr. Chairman, before we do the special exception, I'd like to call the applicant up please, and ask you to please identify yourself for the record and reaffirm that you have read the development conditions, that you understand the development conditions, and that you pledge to obey the development conditions.

Benjamin Pelletier, Agent for the Applicant, Network Building & Consulting, LLC: Good evening. My name is Ben Pelletier. On behalf of Verizon Wireless, I do reaffirm the affidavit that was submitted, and I have read through the development conditions, I understand them, and Verizon will adhere to those conditions.

Chairman Murphy: Thank you very much. Ok, I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE 2015-SP-023, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED JUNE 1, 2016.

Commissioner Hart: Second.

Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Chairman de la Fe: Opposed? The motion carries.

Chairman Murphy: I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE THE MODIFICATION OF SECTION 13-303 OF THE ZONING ORDINANCE FOR THE TRANSITIONAL SCREENING REQUIREMENTS TO PERMIT THE LANDSCAPING AS SHOWN ON THE SPECIAL EXCEPTION PLAT, AND ALSO TO DIRECT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES TO WAIVE THE DUSTLESS SERVICE REQUIREMENT OF SECTION 11-102 (11) OF THE ZONING ORDINANCE FOR THE GRAVEL DRIVEWAY TO ACCESS THE TELECOMMUNICATIONS COMPOUND AS DEPICTED ON THE SPECIAL EXCEPTION.

Commissioner Hart: Second.

Chairman de la Fe: Seconded by Commissioner Hart. Any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Chairman de la Fe: Opposed? The motion carries.

(Each motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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At the conclusion of the cases, Chairman Murphy resumed the chair.

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RZ/FDP 2015-HM-012/DPA-HM-117 – SEKAS HOMES, LTD (Decision Only) (The public hearing on these applications was held on May 5, 2016)

(Start Verbatim Transcript)

Commissioner de la Fe: Thank you, Mr. Chairman. Mr. Chairman, we had a public hearing on May 5th, 2016, on these applications. We deferred the decision to May 26, 2016, to address a number of issues related to the redevelopment plan. The issues raised at the May 5th public hearing were addressed in various proffer changes made available in time for the May 26

scheduled decision. During the period of the initial deferral, the issue of the architectural and historical significance of the American Press - American Press Institute building, which is on this site, gained prominence. As was mentioned at the public hearing, during the multi-year review of the Reston Corridor Area leading to the adoption of the current Comprehensive Plan that now governs this area, the - there was no mention of the API building. This multi-year effort included participation by several hundred people, including numerous architects. Again, the API building did not come up and there is nothing in the Comprehensive Plan about it. There has been a passionate and extensive movement to delay or further defer the decision on this application in the hope that steps could be taken to somehow preserve the API building. I understand the intensity and the desire to preserve the building but, as I've stated before, we must make our recommendation to the Board on the basis of the Comprehensive Plan, applicable codes, rules and regulations as they exist now, not as what may or may not happen in the future. The facts as we have them before us are - we have a legally submitted, accepted, and analyzed application. The applicant has dealt with the issues raised through the proffers that are now contained in the package and through negotiations with the staff and are contained in the staff addendum that was dated June 8th. The staff recommends approval and I believe that given the facts as they exist, not as may - we may wish them to be in the future - I believe that it is time for the Planning Commission to make its recommendation on this case. On a personal note, the recommendation that I am about to make is one of the most difficult ones that I have had to make in the many years that I have been on the Planning Commission, especially as I look at the petitions, I see that there are many long time personal friends, acquaintances, and neighbors who are those that oppose this application because of its impact on the API building. However, Mr. Chairman, given the facts as I have them, I MOVE APPROVAL OF RZ 2015-HM-012 SUBJECT TO THE EXECUTION OF PROFFERS AND - I'M SORRY - AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED MAY 23, 2016.

Chairman Murphy: Second. I seconded. Is there a discussion of the motion? Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman.

Chairman Murphy: I got carried away there.

Commissioner Ulfelder: I plan to vote against this motion not because I am prepared at this point to deny the application, but because I think that the County failure to recognize this building's importance does not really detract from the building's significance and importance. And I think that we should take a little bit more time. Staff had prepared a memo on the potential feasibility study to determine what the condition of the building would be and what possible uses or reuses could be appropriate for this building and it would give us - I think - once we would have that information, we could then determine whether that was even feasible or not. And if it was, then we might have a basis for some further discussions about how to proceed in this case. And I just think that taking some more time to do that makes a lot of sense because of - I'm not going to go into the long history - we've received a lot of information about this building, it's importance, it's significance, the people who came to meetings and participated in conferences at that building, and why it has a real special meaning. In fact, it's an example of the brutalist architecture on a smaller scale. It fits beautifully on the site and - but it does have its own set of problems as well. And I think that taking the time to study it a little further, to think about it, and

to consider what some of the options might be and whether the parties that are involved would be willing and able to work with those options, I think make sense. So I plan to vote against the motion at this time and would prefer to see the decision further deferred while we proceeded with that kind of feasibility study with a report back to staff and to us on the results of that.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes, thank you, Mr. Chairman. I regret that this - I think it's going to be a lengthy verbatim. I agree largely with Commissioner de la Fe's observations, although, I think I also come down on the side of Commissioner Ulfelder. I think we're on the horns of a dilemma. We have a very important obligation to treat the applicant fairly and consistently with everybody else and to judge this application in the context of the adopted Comprehensive Plan, and the Zoning Ordinance, and our common sense, and any typical case where we would make a recommendation to the Board of Supervisors to not treat this applicant unfairly. At the same time, I think we also have obligations to the County and the community wherever appropriate to identify and preserve structures of historic, or architectural, or artistic significance. And on this one it's particularly difficult because we messed up, we - collectively the County, that this structure should have been identified at some point along the way and it wasn't. And - and I've struggled myself with how did we get to a situation where because of a technicality an architecturally significant building by one of the most significant architects of the 20th century, the only building by him in Virginia, is not protected in any way and that all we can do is ignore the existence of the building. And I thought with the resources of the County, maybe that makes it even more important for us collectively to come up with a solution that is fair to the applicant and yet recognizes our responsibility to deal with that significant error. I feel also that the omission of the building from any identification or text in the Comprehensive Plan in no way diminishes its significance. I hope this is a wakeup call to us and I understand there may be a follow on motion, and that we need to make sure that something like this never happens again. I want to address a little bit my concerns about the case and some of my observations since the public hearing. I started thinking about this case when I looked at the drawings and, unfortunately, I didn't read the staff report initially. I didn't read the letters dealing with the Marcel Breuer's involvement and what had happened. But in looking at the - the drawings of the townhouses, I had the same concern that I have on some the other what I've called "urban townhouse two-car garage situations" where it's a narrow garage with an interior clearance of less than 20 feet which was the AIA template, which for whatever reason we have sometimes counted as two parking spaces for Ordinance purposes but haven't always worked out. This case isn't as bad some of the ones we've seen and the applicant has made some improvements. There will be a disclosure that the garages are slightly longer now if not wider. But I still don't think we have captured exactly what we need to do with parking. I think it is unrealistic to count narrow garages as two parking spaces, particularly where there isn't enough extra parking either in driveways or elsewhere on the site. We've resolved that on other cases, on this one I'm still not a hundred percent sold. I wasn't at the public hearing and that issue remains for future cases. Setting aside the issue of the parking, I tend to agree with Commissioner de la Fe that the significance of the building standing alone would not be a basis for denial. Commissioner Lawrence who couldn't be here tonight did call me earlier this week and he had a concern also, and I'll mention this in passing for his benefit, that the type of documentation that is contained in the report in the staff report, although the applicant may well have paid 14,000 dollars to get that. The photographs in the report do not necessarily adequately document the entirety of the

building inside and outside or what we - we might want and Commissioner Lawrence had some detailed suggestions about what might be done if for something that would go in the Virginia Room, if an appropriate case of building were to be demolished and - but documented first. That - we haven't spent a lot of time with that issue. Staff also had sent us a memo in the last few days regarding an additional study. Commission Ulfelder referred to that and I thought given everything else in this mix, I would be more comfortable if that avenue were pursued. I don't know where the money comes from for that but it was not as great an expense as I had anticipated. We received also on this case, as been alluded to, input from not only from the Architectural Review Board and the History Commission, which set off the alarm bells for me in the staff report the night of the public hearing, but also since then the letter from the Department of Historic Resources saying the building was of exceptional significance, a letter from the American Institute of Architects, which I don't remember ever getting before, saying you have a building by a gold medal winner. The only building by him in Virginia, you can't do this. We've gotten comments from all over the world and the only two times I can remember something like that exploding on a case were, maybe there are others, but the dance floor measurement fiasco and a BZA case with a tree house in the front yard which - both of which - tell me in the thermodynamic principles of land use and human psychology, when you start getting letters all over the world feeling with a local land use case, something is wrong and we should thread carefully. The building itself - I had - I appreciate the applicant's willingness to go through the building with us and take the time to do that. Mr. Sekas has been here before, he will be here again and I - and I appreciate his - his - dealing with us in that spirit. I had hoped somewhat that I wouldn't be very impressed by the building, that it might be some non-descript vacant something and it wouldn't really matter. I was very favorably impressed seeing the building, I hadn't expected that. And the use of light and shadow, the incorporation of natural light on dark interior spaces, an auditorium with natural light from above, skylights and clerestories, and unobstructed windows that brought the outside into the rooms. Rooms that appeared to have trees inside the rooms. The use of windows with fins and recesses to shade the glass from direct sunlight, acoustics in two of the rooms. If we had meeting rooms that were as beautifully designed as some of the rooms in that building... Compared - I mean, everything we upstairs seems so mediocre and ordinary and I was - it is - I was - I was very - I was - I was as impressed by that building as other architectural buildings that I've gone to look at by other architects. I thought this is a significant - it's a special building, it's beautifully designed, and I was very favorably impressed. I think that six of us went on a tour and I expect, and Commissioner Flanagan is an architect, and - and I think people would have similar reaction to it but the letter we got from DHR about the building being of exceptional significance, I think that was an appropriate phrase for it. And it gives me pause again before - we've messed up, we really messed up and that - it bothers me a great deal. The other concern I have, the Land Use Committee - one of the members of the members of the Land Use Committee had indicated that at the time - I think it's a Reston PNZ Committee - that the Committee was not aware at the time of their deliberations of any of this and I don't know that that would have changed something but it gives me pause that we're acting on something in a way that - we rely in part on the Land Use Committee's having looked at things and having discussions with the applicant, that didn't happen in the way that I think we would - we would prefer. I want our recommendation to the Board to be something that we're confident about, that we're proud of and I'm not comfortable. I think if this goes to the Board the way it is now, it's going to be a blood bath, it's going to be a long night with a lot of angry speakers that are going to be unhappy no matter what. And we - it makes the County look bad. I think we can do a little better job with a little more time, I hope. And I hope that there is

some way that all this can come together, and that there is some way out of this dilemma. I'm sorry for going on so long but, you know, this is a countywide case, this was a major screw up. I hope that we can take something good out of it and I'm going with Commissioner Ulfelder. Thank you.

Commissioner de la Fe: Mr. Chairman.

Chairman Murphy: Mr. de la Fe first.

Commissioner de la Fe: No, I would like on one point to correct the record for Mr. Hart. Although the person he might have spoken to from the BNZ Committee might not have been paying attention. The issue of this building at the Planning and Zoning Committee was very much discussed. There were people there that, you know, had worked in the building and they did everything they could to, you know, to tell the Committee the importance of this building as a result of those discussions is why we have proffers that the applicant has made concerning the building. And it was a divided vote, it was 7-4, four against and one abstention. But, you know, this certainly was discussed. It is not easy to do and then the other thing about the study - further study - is as stated you don't where the money is coming from, I don't either, and I'm not sure whether - what would be accomplished by further delay on this to permit a study to be done now when - if a study should have been done five years ago or whenever it was that the API sold this building. And if they had such, you know, if the building had such significance, they could have put a covenant on it, on the deed, that the building could only be reused. They were just interested in selling and when the applicant submitted its application, there is nothing that, you know, this is not an overlay district, this is not any historic listing. So I realize - it is not easy - but I just don't know what further delay will lead to different then making, you know, acting on this. I think further delay might be almost equivalent to a denial and I just don't believe that we can deny an application for a building to save a building that is nobody's official listings and certainly it's not an overlay district which is the only one that would require that the building, you know, meet certain conditions.

Chairman Murphy: Okay, Ms. Keys-Gamarra and then Ms. Strandlie, Ms. Hurley, Mr. Flanagan.

Commissioner Keys-Gamarra: Thank you, Mr. Chair.

Chairman Murphy: And I will remind everybody, now since we've discussed this kind of fully that we are on verbatim. Okay? Which is not to preclude you from talking but request you to be brief for everybody.

Commissioner Keys-Gamarra: Why would you say that when I start talking?

Chairman Murphy: Yeah, because we - we have - nothing personal but I just to remind everyone around the room.

Commissioner de la Fe: Because you're sitting a way back.

Commissioner Murphy: Yeah, yeah.

Commissioner Keys-Gamarra: Okay, I'll try to be brief. I'll throw these other pages away. I do agree with my colleagues, Mr. Ulfelder and Mr. Hart. I was also one of the people who

participated in the tour of the building and I hear Mr. de la Fe and I understand and respect his analysis. But I think it's very important that we do not look at this issue in a vacuum. We have a duty to consider the information that we've received. I understand that there is a petition with signatures, I - I believe of more than 700 people. This is - this is a treasure. I actually - my brother graduated from architectural school and after I left that building I called him and he confirmed what I was feeling and that that was - that this was something to be cherished. I understand that we are bound by the Comprehensive Plan as well as the Zoning Ordinances but I think we made a mistake. I think that there was an oversight and we need to find some way to protect and preserve for our community. I cannot imagine saying to my children that this treasure is not available because of a mistake. So, Mr. Chairman, I cannot in good conscience vote to approve this application at this time. I think it is appropriate to go through the steps that have been described previously. We have a duty to our community and, also, I want to mention in the earlier hearing we were told that the building was not included in the historic register but we were not provided an explanation as to why and I do think it was a mistake. And as a newest member of the PC - of the Planning Commission - I would ask my colleagues to allow the process to continue because to quote my colleague, Commissioner Hurley, "once this building is gone, it's gone." And I'd like to make sure that we take every step that we can to both respect the applicant and try to preserve a treasure for our community. Thank you.

Chairman Murphy: Mr. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. I have to agree with my other colleagues on the need to extend the deliberation on this - on this building. I also agree with Commissioner Hart about the problems with the application itself and I completely respect Commissioner de la Fe's position on this. This building is - is a treasure. I have a newspaper background with my first job out of college and I - actually in high school - and I asked my first boss, I emailed him and he said - he's a newspaper editor on the West Coast now - and he said it would be an awful situation to lose this building over a human error. And, I think, we do need to go back and make sure that we have done everything we can. The world is now aware that - that this building exists. Perhaps, people didn't know. Obviously, people didn't know that this was there or - and/or important. So, perhaps, during this deferral period, hopefully, that we will get - that I will support - we will have that opportunity. The other thing that - that really struck me as making a big difference in the proffers, there is the public art section that talks about the applicant will work with the IPAR, the Initiative for Public Art, to allow the installation of public art on the property in the - in the area - potential public art area. It will be, according to the Reston Association, "an art element that will commemorate the prior existence of the American Press Institute building." And I'm not willing to take a step that would make this a building that previously existed. So thank you very much.

Chairman Murphy: Ms. Hurley and then Mr. Flanagan, and then Mr. Migliaccio.

Commissioner Hurley: Thank you, Mr. Chairman.

Chairman Murphy: I'm trying to keep score here.

Commissioner Hurley: I concur with the thoughts of the previous four Commissioners and I will be brief. The Planning Commission is not a rubber stamp and we do sometimes catch and try to

correct previous oversights and omissions. I cannot vote to recommend approval of this project until the building has undergone a determination of eligibility, a DOE for the National Register of Historic Places, and I will also vote that - against the motion this evening.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes, thank you, Mr. Chairman. My - my question first is to the staff. The - this - I see that the Board of Supervisors is not scheduled to receive this, that their meeting before the Board has not been scheduled. Is that correct?

Chairman Murphy: It's to be scheduled, I think.

Laura Arseneau, Planner III, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): Yes, yeah to be scheduled, that's correct.

Commissioner Flanagan: So we do, possibly, if they don't get it in before the Board, before the August recess, is we, probably, not before them until the fall. Is that right?

Ms. Arseneau: Yes, that would be correct.

Commissioner Flanagan: And just my own feeling initially on this was, I was planning on abstaining because I felt that the - the application had left a lot of loose ends unresolved. One of which was a letter that I received from a businessman in Reston who indicated that they previously had approached the Institute about purchasing the building that it was absolutely a perfect fit for them as a sight to relocate their Reston business. And I really haven't heard anybody explain yet to my satisfaction as to whether that - why that - you know, didn't occur. But I presume that - that plus some of the other questions that are risen here, you know, would be worthwhile resolving before this goes to the Board of Supervisors. And - so I'm constant - sensitive to the Commissioner de la Fe's motion which appears to me to - one to avoid the prolonged delay in resolving this issue. That it - I think we do if were to support this motion, there might be enough time left to actually pursue some of the things that are follow on motion about, you know, doing the - what Commissioner Hurley - get a determination as to that and that would set the date, you know, it would be finely available for the Board of Supervisors. I don't know whether that's appealing to Commissioner de la Fe or not, I haven't talked to him about it, but I - I want to be sure that everybody aware - is aware - that I am the only architect on the Planning Commission, I presume. And I spent my career working in the Marcel Breuer building, and it's - I found that - the building, you know, totally competent for use, you know, today and I hate to see a building, you know, just thrown away just because they can't find a - temporarily - find somebody to - to - put a to - in appropriate second use. There are many other Breuer buildings that have been converted to other uses and I presume that that has been pursued by the applicant, I'm also sensitive to Mr. Sekas. I think we, you know, he's been pursuing this for quite some time and I'm not interested in, you know, prolonging his agony either. That - I think that if we could come to some sort of an agreement as to maybe allowing this to go to the Board and letting them deal, you know, with a recommendation that nothing - no action be taken on this until a study, an architectural study, determinative study has been completed. Those are the only comments that I have.

Chairman Murphy: Mr. Migliaccio and Mr. Sargeant.

Commissioner Migliaccio: Thank you Mr. Chairman. I'll be brief. I am going to support Commissioner de la Fe's motion tonight because I think that we need to respect the land use process that Hunter Mill has, that the community has, and that the applicant has gone through this in an honest forthright manner, I believe, and to penalize him at the last moment is not fair. He's seen the emails, he understands the outcry that's out there. And to piggyback on Commissioner Flanagan, we do not have a Board date. We have six weeks, normally, from the time we approve something or make a recommendation at the Planning Commission before it goes to the Board. Within that six weeks, I think, we can find time to do whatever needs to be done. Just to defer at this level, because we had a public hearing and then we deferred the decision and that we had this outcry. We didn't have the outcry until after the public hearing. There was much of this that should have been taken care of prior. Staff missed this, the community missed it, but to penalize the applicant at this stage, I think, is wrong. I'm going to support Commissioner de la Fe, I don't want this building to be torn down but I think the process needs to play out and I think by moving it to the Board and shining a light on it there might - something might come to a head faster going through that path than keeping it here. Thank you, Mr. Chairman.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Okay. Mr. Chairman, a couple of comments. I - I really don't believe that this oversight was in any way deliberate. I have absolutely no doubt about that. I do believe that it may be due in part to the fact that this building is in area that is surrounded by historic significance. This area is rife with - with significantly - significant architecture. And I also believe that the County is well served by County staff and citizens who are dedicated to identifying sights of historic significance. So, we have a challenge here. I think the - the overall application is very good. We do have a process issue, though, that may spell itself out in precedent issues in the future. What I'd like to suggest is, perhaps, an alternative motion that would defer a decision only until, perhaps, mid-July followed by a recommendation that the specific issue of funding a study on this site, on this historic API building, be forwarded to the Board of Supervisors at their June 21st or July 12th meeting for consideration. And then that would be followed by a final decision by the Planning Commission as they set on either July 13th or July 14th. And I'm hoping that would be a successful - an acceptable alternative to an up or down vote tonight. I completely respect Commissioner de la Fe and the citizens who reached this conclusion in this recommendation. I think that time to let us address a process issue would be helpful. I'm offering it for consideration, if that's possible, and I will make it as a motion if it's being acceptable.

Chairman Murphy: Well we'll find out once you make the motion.

Commissioner Sargeant: well let's try it, all right? Mr. Chairman, I WOULD MOVE THAT THE PLANNING COMMISSION DEFER A DECISION ONLY ON THE APPLICATION INVOLVING THE API BUILDING UNTIL A DATE SPECIFIC TIME OF JULY 13TH AND ALSO RECOMMEND THAT THE SPECIFIC ISSUE OF FUNDING THE IDENTIFIED HISTORIC REVIEW STUDY OF THE API BUILDING BE FORWARDED TO THE BOARD OF SUPERVISORS FOR CONSIDERATION AT THEIR JULY 12TH MEETING AND

THATWOULD BE FOLLOWED BY A FINAL DECISION BY THE PLANNING COMMISSION ON JULY 13th.

Chairman Murphy: Is there a second to that motion?

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion?

Commissioner de la Fe: One question.

Chairman Murphy: Mr. - Mr. de la Fe.

Commissioner de la Fe: What are we going to gain by, you know, the study won't be finished. We don't know that the Board of Supervisors is going to approve the funds. I really think that something that is of such significance to so many people would have been identified a long time ago and I honestly don't see what we would gain by deferring our decision at this point.

Chairman Murphy: Mr. Migliaccio first.

Commissioner Migliaccio: Just on that point. I agree with what Commissioner Sargeant put in his motion. I - I - but I feel that that would be better left as a follow on motion to Commissioner de la Fe's first motion. It sounds like his first motion will fail and we'll have a negative recommendation sending up to the Board and then, perhaps, we can put on a follow on motion for the Board to look at this for the funding.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: I'm still at the opinion that, if its possible, a feasibility study would be extremely helpful and for everyone involved. And I agree with the points that we need to be totally fair to the applicant, to the property owner who is a third party, not the applicant, and purchased it back in - about three years ago - purchase this building. And he actually bought it from the newspaper association. The API got merged into the newspaper association some years ago and they - the newspaper association was already based in Arlington and had no use for the building, didn't know much about the building. The API people kind of were gone and so there was no real opportunity there to fully understand the importance of the building. But that being said, the - I think the issue is we can't order a feasibility study, we aren't going to take - we don't have the money in the PC budget to pay for a feasibility study. So, I think, Commissioner Sargeant's motion is a good one in - as a way to try to see if the Board thinks it's important enough to take that step, to have it done and to see if there is something further that could be done working with all the parties to see what would be the future of this building, and that we could - all we're asking for is a modest further delay in consideration of this. If the Board, for example, decides we're not going to pay for it, then we're faced with that - we're faced with the decision where there is not an opportunity to get that additional information that we may want and that we may need - we think we need as we go forward. So I support Mr. Sargeant's motion and I think it's a - it's an - it's a good step towards trying to see whether there is something further that can be done to this building.

Commissioner Sargeant: Mr. Chairman, if I could add...

Chairman Murphy: Sure.

Commissioner Sargeant: You know, I - a couple of things. As Commissioner de la Fe pointed out, this building was discussed during the public vetting process at the local level, certainly understand that, which is one of the reasons I'm reluctant to suggest that the applicant should pay for any kind of the study. The - the fact that this was missed is a process issue to me cause, as I said, I don't believe it was intentional, deliberate, it just happened. And with that, I think, adjusting the process for that particular issue, not for the application, for that particular issue is important enough that we take just a little bit longer to make sure we do this right because when we send this application to the Board of Supervisors, I'd like it to go with a recommendation of - of - with a recommendation - a positive recommendation. And I think this issue will - will hold further detailed consideration of this - of this overall very good application.

Chairman Murphy: Any other discussion of the alternate motion? All right.

Commissioned de la Fe: There - there's a staff member who would like to speak.

William Mayland, ZED, DPZ: I hate to interrupt, especially doing a verbatim. If you're looking to do the study, there would potentially be funds in the Department of Planning and Zoning; however, we would have to have access into the building to be able to conduct that study. For the memo, that would take up until the end of July in order to complete that. But something that in terms of funding that we could provide but we would have to have access to the building. That, of course, would be up to the applicant to provide us that, if they're willing to.

Chairman Murphy: Mr. Hart.

Commissioner Hart. Yes, Mr. Chairman. If I understood, you're saying the funding is not a problem, you just need the access?

Mr. Mayland: Correct.

Commissioner Hart: So you have to pay for the...

Mr. Mayland: And the time - and the time to do it.

Commissioner Hart: Yeah, but you would need till the end of July rather than July the 13th, two more weeks?

Mr. Mayland: Correct. What we have done is spoken with Alexandria Company we have relationship with. They work with this on the Lower Hill project. They indicated in this - in the memo willingness to a limited scope feasibility study and they will need till end of July, July 29th, and it'll be a limited scope, and that - but again they can't provide that - they can't do that study without access to the building.

Chairman Murphy: Now you tell us. All right. You? Mr. de la Fe.

Commissioner de la Fe: Yes, on the issue of what this study is, is it a study to determine whether

this building qualifies for the register? Or - what are we studying?

Linda Blank, Planning Division (PD), DPZ: Linda Blank, Department of Planning and Zoning. Commissioner de la Fe, no, this is not a study to determine whether or not it would be eligible for the register. But part of what this study would do would be to talk with the Virginia Department of Historic Resources regarding potential tax credits and to look at various, up to three potential uses, adaptive reuses for the building.

Commissioner Sargeant: Mr. Chairman, I might add that... In that - oh I'm sorry.

Commissioner Migliaccio: No, there is some over there too.

Chairman Murphy: All right, Mr. Sargeant, go ahead you made the motion.

Commissioner Sargeant: I might add that at the conclusion of that study might determine that it is not to be saved, that is could be memorialized. There are other options in addition to the adaptive reuse and I think that's what a thorough professional study will include.

Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Migliaccio first.

Commissioner Hart: Oh, I'm sorry.

Commissioner Migliaccio: I'm sorry. I believe.

Commissioner Keys-Gamarra: I have a question actually. Just procedurally.

Chairman Murphy: Hit the mic.

Commissioner Keys-Gamarra: Sorry. Procedurally, I'm a little confused as to whether we need to deal with Mr. de la Fe's motion first.

Chairman Murphy: We will do the alternate motion first.

Commissioner Keys-Gamarra: Okay.

Chairman Murphy: And then see if that goes up or down. If it goes up, it prevails.

Commissioner Keys-Gamarra: And - and at some point I'd like somebody to repeat what the motion is because I kind of lost it in the whole discussion.

Commissioner Migliaccio: Mr. Chairman.

Chairman Murphy: Join the room. Mr. Migliaccio and then we go back over here.

Commissioner Migliaccio: Thank you. I just go back to the point. Mr. Mayland told us it'll be July - end of July. As we all know here, we shut down in August. So they're looking at deferral until sometime in mid-September if we keep it here at the Planning Commission. I again will

stress that it might be beneficial to all to shine this light brighter at the Board, get this off our plate, even if it's not with the recommendation that is a positive one and then - because, otherwise, we're going - I don't think we should let it sit here until mid-September on the off chance that we might do something with it. And I don't know what that might be once we got information back.

Chairman Murphy: Okay. Someone else?

Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I felt like if it was the County's fault that we missed it but the point of sending it to the Board was about funding the study but the study is funded that maybe that - that doesn't make sense. What would be the next Planning Commission meeting date after.

Chairman Murphy: September 14th.

Commissioner Hart: Oh, it would be September 14th, as long as that...

Chairman Murphy: After the break. I believe. Where is John? September 14th, I believe, yeah.

Commissioner de la Fe: September 14th is the first meeting date in September.

Chairman Murphy: Do you still have something? Hold on.

Commissioner Hart: Well, I guess, I was going to suggest a friendly amendment but I don't know if September 14th is too far. I kind of wanted to ask the applicant a question. I'm not sure if I want to go there at this point, so I'll just stop.

Chairman Murphy: All right, Ms. Strandlie and then Mr. Flanagan.

Commissioner Strandlie: I would support your friendly amendment if you were to make that to differ it till September.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: I have a question for staff again. The - the previous study that was done, the architectural study, historical study that was done that is in the report, is from the corporation called EHT Traceries and is the - if the study that you're proposing to do going to be comparable to that, will be a repeat of that or...

Linda Blank, PD, DPZ: Linda Blank, Department of Planning and Zoning. No, Commissioner Flanagan, it will not be a repeat of that. What was done for the staff report was requested for documentation with indication that at that point that the building was proposed to be demolished and that was the purpose of that study by Traceries. The feasibility study would be looking at the adaptive reuse, market conditions, etc.

Commissioner Flanagan: Yeah, why - the reason I raised that is because when I read the report, I was shaken in the competence of that report somewhat when they referred to Mr. Breuer as Martin Breuer and I was, you know, I was just kind of maybe a little bit wandered about the accuracy of that particular report that.

Chairman Murphy: Let me ask Mr. Sekas. If we have that - the criteria in there that Mr. Mayland stated, would you give the County access to the building to do this study?

John Sekas, Sekas Homes, Ltd., 407 Church Street, N.E., Vienna, VA 22180: I am just the applicant, I'm not the owner. So I don't know, I have to.

Chairman Murphy: Could we - just identify yourself for the record, if you don't mind.

Mr. Sekas: I'm John Sekas, I'm the applicant of Sekas Homes.

Chairman Murphy: And what was your reply, I'm sorry.

Mr. Sekas: My reply is that that I have to check with the actual owner, cause I'm not the owner, I'm just the contract owner.

Chairman Murphy: Oh you have the contract purchaser, is that...

Mr. Sekas: Yes, the concern I have is - I stuck my neck way out on the limb on this application because the owner wanted to take the building down before we filed the application. And if this process goes any further, my neck is getting cut off and that's a developer of thirty years in the County because I did the right thing. I told the owner not to take the building down. Period. And the only reason why we're discussing this at such great detail is because of the broken county across the street and the storm water comments that someone at the last minute after a year changed their mind. I have to tell you, for thirty years I've worked in this county and I'm sad to tell you, and pardon me for being choked up because I defended this county, as you all know, to do the right thing all the time but in this case we were here in May, we're a month later, and the reason - the only reason why we were deferred was because of the small storm water issue. There are no citizens outside of the Architectural Review Board. I mean, I've been in rezonings where the line goes up the staircase with opposition from neighbors. We've gotten calls from the neighbors who want this project. I cannot tell you whether I can give you access or not because we might pull the application and start all over again.

Chairman Murphy: Okay, all right, thank you. I think that answers the question. But I would recommend we can go on with alternate motions for all eternity.

Commissioner de la Fe: Mr. ...

Chairman Murphy: Hold on just a second. My suggestion is, I think, Mr. Migliaccio, hit the nail on the head. I would suggest strongly that Mr. Sargeant withdraw his motion, we go back to the main motion, vote it up or down and get it to the Board one way or another. Mr. Sargeant?

Commissioner Sargeant: Thank you, Mr. Chairman. I'm - since the money is already there, the motion is kind of moot. I'm certainly planning to withdraw this motion. What I would suggest, though, it's a question as to whether if we recommend approval, could we add that the Board consider the - well - no consider it, probably.

Chairman Murphy: Let's do one at a time. All right, he's going to withdraw that motion. We return to the main motion. ALL THOSE IN FAVOR OF THE MAIN MOTION TO RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE THIS APPLICATION, SAY AYE.

Commissioners: Aye.

Chairman Murphy: Aye. Against? Please vote.

Commissioners: Nay.

Chairman Murphy: All right, the ayes - the nays have it. The application will go to the Board with a negative recommendation.

Commissioner de la Fe: Do we have a division?

Chairman Murphy: Oh, we have a division, okay.

Commissioner de la Fe: Somebody has it.

Chairman Murphy: Yeah, sure. Ms. ...

Commissioner Keys-Gamarra: Nay.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Nay.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Aye.

Chairman Murphy: Aye. Mr. Hart.

Commissioner Hart: Nay.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Aye.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Aye.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Nay.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Nay.

Commissioner de la Fe: Aye for me.

Chairman Murphy: And Mr. de la Fe.

Commissioner de la Fe: Aye.

Chairman Murphy: And the Chair votes aye and the motion fails. It's tied. Okay. So, back we are again. Mr. Mayland, this better be helpful.

(The motion failed by a vote of 5-5. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

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Mr. Mayland: I believe we - we made the motion on the rezoning. We do have the final development plan still. If I'm wrong, and the development plan amendment for the motion for the Board. I just want to make sure we get it all, these three sets of motions, make sure we have all covered, if I...

Chairman Murphy: All right, you're very helpful, thank you so much. Okay. The motion fails and so it will be sent to the Board with a negative recommend- with it...

Commissioner de la Fe: That is a motion for the rezoning.

Commissioner Hart: You've got to vote one more time. That's what staff has said.

Chairman Murphy: Yeah, one more time.

Commissioner de la Fe: We have to vote two more times.

Chairman Murphy: Okay.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF DPA-HM-117 TO PERMIT THE DELETION OF 22,834 SQUARE FEET OF LAND AREA FROM THE PRC DISTRICT.

Chairman Murphy: Second. Is there a discussion of that motion? All those if favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: Nay.

Chairman Murphy: Is the same division? Did anyone change his or her mind? All right, go ahead.

(The motion failed by a vote of 5-5. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

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Commissioner de la Fe: Okay. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE THE FINAL DEVELOPMENT PLAN FDP 2015-HM-012 SUBJECT TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2015-HM-012 AND THE CONCEPTUAL DEVELOPMENT PLAN.

Chairman Murphy: Second. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Is there any division - a difference in the division? No? Okay.

Commissioner de la Fe: Well, those are three that have to be done.

Chairman Murphy: Okay.

Mr. Mayland: Thank you.

Chairman Murphy: So this goes to the Board without a recommendation.

Commissioner de la Fe: No, a denial.

Chairman Murphy: Denial. Sorry, I'm sorry, denial.

(The motion failed by a vote of 5-5. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

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Commissioner Hart: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Hart: I'd like to do a follow on motion and I'd like to do it briefly. I didn't write it out. At the gist of the follow on motion is this. I will RECOMMEND TO THE BOARD OF SUPERVISORS THAT STAFF BE DIRECTED TO UNDERTAKE WHATEVER APPROPRIATE INVENTORY OF HISTORIC SITES IN THE RESTON AREA WE MISSED DOING A YEAR AGO IN CONJUNCTION WITH THE ARB, THE HISTORY COMMISSION AND APPROPRIATE AGENCIES, AND THAT THAT EFFORT BE PRIORITIZED IN LIGHT OF THIS SITUATION.

Chairman Murphy: Second. Is there a discussion of that motion? All those in favor of the motion as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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The Commission went into recess at 9:21 p.m. and reconvened in the Board Auditorium at 9:39 p.m.

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SE 2015-MV-019 – CHARLES COUNTY SAND & GRAVEL COMPANY, INC. (Decision Only) (The public hearing on this application was held on February 25, 2016)

(Start Verbatim Transcript)

Commissioner Flanagan: Thank you, Mr. Chairman. On February 25, the Planning Commission heard testimony requesting approval for a concrete batching plant as a special exception which is split-zoned I-6 heavy industrial and R-1 is on Gunston Cove Road in the Mount Vernon District. Although the concrete batching plant would be located on the I-6 zoned portions of the site, use is not permitted by-right. The lot is one of six lots zoned for I-6 on Gunston Cove Road and is bordered by land on east and west zoned residential next to I-95 and Lorton Market Street. Three of these lots are industrial uses enclosed in industrial/flex buildings. Three lots are vacant, two of which are forest with mature trees. Since the public hearing, I have reviewed the public testimony and three follow on events suggested by the Commissioners. The first was a request that the South County Land Use Committee and Federation reconsider their 2015 resolution

recommending denial since it was adopted nine months before the staff report was published. You have received the recent South County Federation resolution reaffirming that prior recommendation of denial but now based upon the staff report and testimony during the public hearing. The second Commission suggestion was that the South County Land Use Committee and the Federation recognize that a potential by-right junkyard would be worse than a not by-right concrete batching plant. I have since been informed by the South County Land Use Committee and the Federation that there are now two junkyards in the same Comprehensive Plan Sector LP-2, Unit F, land bay which is along Richmond Highway, south of the proposed concrete batching plant. Both sites are screened by 8-foot high fences. One is also attractively landscaped. Junk at neither site is visible from the highway since junk or equipment in junkyards are not high enough or easily seen as are concrete batching plant facilities. No constant dust is generated. No constant noise is generated. No existing residential buildings overlook these two junkyards. The reason? Junkyards are better regulated than concrete batching plants. Zoning Ordinance Section 5-605.4 states "In addition to the regulations of this Ordinance, junkyards shall be subject to the provisions of Chapter 21 of The Code, Automobile Graveyards." Also, few of the thirty-two I-6 by-right uses are heavy industrial. Twenty-two, such as child care centers, churches, contractors' offices, et cetera are commercial. Only six, such as junkyards, recycling, open storage, et cetera are industrial; and the remaining four for recreation facilities, bus terminals, barns, repair shops, and public utilities are public uses. The Federation has no objection to using the applicant's site for any of these thirty-two by-right uses, neither do I, nor does Supervisor Storck. Finally, there was a Commission question about text in the Comprehensive Plan that lists concrete batching plants as a current planned use. It is true that text mentions a concrete batching plant as an existing use, but it is equally true that the plan does not recommend concrete batching plants as future infill, redevelopment or development. The third paragraph on page 22 (sic) also plans the area with the existing concrete batching plant as a mixed industrial/office park defined as two or more industrial buildings. The existing concrete batching plant is now planned for only those industrial uses that can be enclosed in buildings. In any event, the above considerations are somewhat moot since any special exception request may be in harmony – must be in harmony, the operational verb there is "must", must be in harmony with eight general standards in Zoning Ordinance Section 9-006, the first three of which say – the first three of which require – the proposed use shall be in harmony with the Comprehensive Plan. Second requires the proposed use shall be in harmony with the purpose and intent of the Zoning Ordinance standards. And the third one requires the proposed use shall be harmonious with neighboring properties. Standard one above requires "the proposed use at the specific location shall be in harmony with the adopted Comprehensive Plan." So what does the Comprehensive Plan say? The Comprehensive Plan on page 66 for LP-2 Sector is crystal clear. To be in harmony with the Comprehensive Plan, any special exception industrial use application for infill – "infill, redevelopment and new development in this area should be industrial flex/office and related commercial uses." A concrete batching plant is none of these planned uses. Industrial/flex, as only defined in the Zoning Ordinance, is "any structure occupied by two (2) or more of the following uses: contractor's offices and shops, establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products, warehousing establishments, wholesale trade establishments and offices." In addition, the Plan on page 92 once again clearly requires that any special exception "uses envisioned for this area include industrial/flex space uses, retail and other related business and employment uses." After legal advice, I am satisfied that the use of the word "include" does not weaken the definition – the definitive plan recommendation on page 66 of the Comprehensive

Plan that infill, redevelopment and new development in this area should be only industrial/flex, office, and related commercial uses. Plan page 92 also states industrial uses adjacent to residential and other non-industrial uses should be enclosed, effectively buffered and set back to minimize use conflicts. There is also un-rebutted testimony with subsequent photos that clearing – clearly show residential neighborhoods overlooking the proposed concrete batching site. The vacant I-6 treed lot providing a summer buffer will eventually be clear-cut when developed, thus exposing all the industrial buildings in that area to the residential developments that are in a higher elevation next door. Further, the applicant is asking for waivers of several transitional screening requirements, as well as a barrier requirement. It is abundantly clear to me that the proposed concrete batching plant isn't in agreement with the Comprehensive Plan text on page 66 and the zoning laws of Fairfax County. The Zoning Ordinance is law which Commissioners are sworn to uphold. The Commission isn't supposed to make decisions based upon the likes and dislikes of people. We make recommendations based upon the law and the Comprehensive Plan. The applicant has also met with Supervisor Storck at their request. He has offered to help the applicant find a site that complies with the Comprehensive Plan. In summary, the application for a special exception is:

1. Not in harmony with the Comprehensive Plan text recommendations that “infill, redevelopment and development should be industrial/flex, office or commercial uses”;
2. Not in harmony with the Zoning Ordinance definition that industrial/flex uses be in a structure;
3. Not in harmony with the neighborhood properties to the north and south that are all industrial/flex, retail or other related commercial uses in enclosed buildings; and
4. Not in harmony with neighboring residential properties not being “enclosed, effectively buffered and set back to minimize use conflicts.”

Therefore, Mr. Chairman, I'm left with nothing but to MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE APPLICATION BE DENIED BY THE BOARD OF SUPERVISORS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. As should be apparent to everyone, we're not all going to agree with each other on every case. And I think that – that the planets have been aligned the last couple of nights. I'm going to support the staff recommendation rather than Commissioner Flanagan's motion. This is a very challenging site. It's already zoned I-6 which allows for, I think, some of the worst or least desirable uses in the Ordinance as a matter of right and those include things like junkyards and storage yards, manufacturing facilities, lumberyards, heavy

equipment repair and servicing, and generally things that people don't want to see or don't want to be near. We have a site also that is bordered on one side by I-95 and the railroad tracks on the other and, I think, knowing everything that we know, it's unrealistic to expect that there would be many upscale type uses or even, perhaps, office flex uses that would be on a noisy site like that, in a location like that. We instead have an applicant that seems to be reputable corporate citizen in Maryland that wants to come here and build a facility, and pay taxes, and employ people, and have this use that would support construction and redevelopment and other things that we need in the County. Sometimes we have to use our common sense in making recommendation to the Board and part of our overall mission, I think, is to advise the Board where and when industrial uses are appropriate. Many times when we see industrial uses these days or we see the topic of industrial use, it is a plan amendment to delete industrial use. We have less of it and there – there is pressure sometimes from neighboring residential areas to delete the industrial. We also have the Comprehensive Plan I think that contemplates in makes of commercial, residential, and industrial to support the tax base and that becomes more acute a problem every year with the budgets. And every time we delete industrial, and don't have industrial puts that much more pressure on everything else. We have a site also that's adjacent to this where the Board approved a similar but somewhat larger concrete batching plant just a few years ago. In my view, the staff recommendation, the staff analysis is correct. This is appropriate use of this site. I think also it's more likely that if an SE use is denied on a site like this, a by-right use would go in, whatever that may be, and that's less likely to support the goals and objectives of the gateway language in the Comprehensive Plan. If we can't put a concrete batching plant on an I-6 site in Lorton between I-95 and the railroad tracks, we're not going to find a place in the County where it can be supported. I think that staff is correct and I'm not going to support the motion. Thank you.

Commissioner Flanagan: Mr. Chairman.

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes, I would just like to comment upon a couple of the observations of a lawyer who does this very well. And that is that – the – the heavy industrial... I was really shocked. I read the I-6 thirty-two uses that aren't heavy industrial because in any other jurisdiction those are the light-industrial. I come from, you know, the Chicago area and heavy industry in Chicago is a steel mill or an oil refinery, or a foundry or something that really is heavy industry. The – these – there is only six heavy industry uses that are permitted in the I-6 area. Only six. All the rest are commercial or public uses. So there really is nothing to fear. The community is not afraid of allowing any of those uses, you know, to – to be there. The – there was just one comment that you made that I'd like to comment upon.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. Again, I will be brief. I concur with the comments of Commissioner Hart. The two lots to the south are zoned industrial I-6, as are the three lots to the north and, as noted, to the west is Interstate 95, to the east are the CSX rail tracks. This is an appropriate site for this use and I will vote against the proposed denial.

Commissioner Flanagan: Mr. Chairman.

Chairman Murphy: Yeah.

Commissioner Flanagan: I just want to point out, those industrial uses to the south and the north are industrial flex that do comply, you know, with the Comprehensive Plan. This use does not. Concrete batching plants are not a permitted use.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. A couple of comments. Commissioner Hart's comments about the obvious likelihood of locating a concrete batching plant in – in this area presupposes that Lorton remains the only site for that type of use or one of the few sites left. I understand that and that's part of the challenge that community residents have – community residents have when we plan for the future of this area. It is mindful that when it is considered at a construction debris landfill to remember the special exceptions and amendments that have been considered or needed because it was zoned residential. So it is an interesting challenge that the community faces as it decides its future and how to plan for its future. The community through its – as you see in the – in the Comprehensive Plan language did not completely rule out any sorts of industrial use but it did say and suggest strongly that, as it transitions to the future, industrial flex would be preferred. I think that's rather significant in what they envision. The previously approved concrete batching plant is not there. So, and, as we talked a lot about transition last night and about the strength of the Comprehensive Plan, we give that credence here tonight in terms of what's envisioned for that site and, going beyond the usual discussion of gateway, it does reference industrial/flex, and that's what the community has referenced as a possible preference for this site. Thank you.

Chairman Murphy: Further discussion? Oh yes, I'm sorry. Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I plan to vote against this motion as well. I visited the site earlier on. It's been some time since we first had this on our plate. And the fact is it's over half a mile from the intersection with Lorton Road. It's on the road that is now a dead-end road because of the fact the bridge over the rail tracks is gone. At the – further on beyond this site is a rather large distribution center with semis and trailers parked there and going, I assume, in and out on a some regular basis and I also drove over to the other side of the tracks and, frankly, a number of the residential buildings over there are angled in a way where you're not really looking directly at the site. They are over 400 feet away many and even further for some of them. And – and, as I say, the railroad tracks are in between, plus some other land on both sides of the tracks. And I – I agree with my colleagues comments that if you couldn't put this kind of facility there, where could you put it? And it is zoned I-6, it's - and it's an appropriate use and it will be entirely sited on the I-6 portion of the property as it has to be. And for that reason I can't support the motion.

Commissioner Flanagan: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Flanagan: Yes, I appreciate the comments made by Commissioner Ulfelder. The distinction here, in this application, is that there is uses that are by-right. In this particular case it's a special exception application which requires that it conform to the text in the Comprehensive Plan. The text in the Comprehensive Plan does not recommend concrete batching plants. So in order to be – that's the law and I swore when I took my oath of office to uphold the law and that's why I'm taking position that I take tonight in my motion.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Mr. Chairman, I'm going to support Mr. Hart's motion. Mr. Flanagan, I think throwing that language that you've just threw out to fellow Commissioners is not helpful to your cause or moving forward cause we all took the same oath, we all interpret things differently, we all are here to vote the way that we see fit and we're agreeing with staff, those that do not support your motion, so... Thank you, Mr. Chairman.

Chairman Murphy: Further discussion? Yeah, I looked at this from all the sides. As a matter of fact, I went down there twice after the public hearing was deferred. And the part that bothers me is the Comprehensive Plan language. It – it specifically states "concrete batching plant." Now, if I wanted to put a concrete batching plant in in Fairfax County where I can best serve the construction needs of the County and I looked in the Comprehensive Plan, and I read that on the I-6 site which has several I-6 sites near it or abutting it, and I read that a concrete batching plant was in the Comprehensive Plan as an accepted use, and I filed an application for a concrete batching plant as a special exception with development conditions that would make it a better concrete batching plant then just putting a concrete batching plant in, and then someone made the motion to deny it, I don't think that's the way the Comprehensive Plan should work. I understand that the citizens in the Lorton area, you know, we had a prison, we had a burned facility. We had all those things and we've gotten rid of – we still have the burned facility and a lot of improvements have been made down there and I was on the cusp of making some of those improvements with the first really upscale development in the Lorton area, which was Crosspointe back in the early 90s which gave that community an uplift with – with residential and then – now we have a town center, we have this, we have that. So it's really quite an effective community now, well planned, well thought out. But still we have these industrial uses down there. And I think that the conception that these – these sites are going to be for flex office is a dream. I just don't think that's going to happen. I think it's going to stay I-6, something else is going to go in there, it's not going to be good for the community. This will be good for the community because at least it has development conditions that ameliorates the impact and it is in the Comprehensive Plan as an accepted use on this site. So I intend to vote against this application cause I don't think, you know, it would be in conformance with the Comprehensive Plan.

Commissioner Flanagan: Mr. Chairman.

Chairman Murphy: Yeah.

Commissioner Flanagan: I would challenge you to show me the Comprehensive Plan where it says batching plants is an acceptable use.

Chairman Murphy: It says – it's – it's in there. Isn't that right Mr...?

Commissioner Flanagan: No.

Chairman Murphy: Doesn't say Comprehensive – on that site?

Commissioner Flanagan: You raised this – you raised this point on the public hearing and in my – in my motion – I addressed the question that you raised at that time.

Chairman Murphy: Okay, well, I feel it is.

Commissioner Flanagan: The – and I would also like to say that, previously, when we had issues coming up with Tysons Corner, we were greatly distressed on another application that has proposed a dog park in Mount Vernon where the applicant was asking for a special permit that didn't agree with the Comprehensive Plan. And both Commissioner Hart and Commissioner Lawrence, both cautioned the Commission to be aware of not complying, not conforming with the Comprehensive Plan on special exceptions because you once you – you abandon that, it's a slippery slope from later on.

Chairman Murphy: All right. Anyone else? I just go to the staff conclusion that the concrete batching plant is proposed on property located in one of the two recognized industrial areas. It's in the Plan. All those in favor of the motion to deny this application, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: Nay.

Chairman Murphy: Nay. Motion fails. Would you like a division? The division start. Ms. Keys-Gamarra.

Commissioner Keys-Gamarra: I support his motion.

Chairman Murphy: Yes, okay.

Commissioner Strandlie: Nay.

Chairman Murphy: Nay.

Commissioner Flanagan: Yes.

Chairman Murphy: Yes.

Commissioner de la Fe: Yeah.

Chairman Murphy: Yes.

Commissioner Hart: Nay.

Chairman Murphy: Nay.

Commissioner Sargeant: Yes.

Chairman Murphy: Yes.

Commissioner Migliaccio: Nay.

Chairman Murphy: Nay.

Commissioner Hurley: Nay.

Chairman Murphy: Nay.

Commissioner Ulfelder: Nay.

Chairman Murphy: Nay. And the Chair votes nay. And the motion fails. Six to four. Four to six.

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Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I have a motion but before I make the motion, can I ask Mr. Hanes to come back to the podium.

Grayson Hanes, Esquire, Reed Smith LLP: For the record, Grayson Hanes, firm of Reed Smith.

Commissioner Hart: Mr. Hanes, have you read and reviewed the development conditions dated March 8, 2016, and does your client understand and agree with those conditions?

Mr. Hanes: I have, the client agrees with this and I agree with this as their attorney.

Commissioner Hart: Thank you. Mr. Chairman, I RECOMMEND THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2015-MV-019, SUBJECT TO THE APPROVAL OF THE PROPOSED DEVELOPMENT CONDITIONS DATED MARCH 8, 2016, AND APPROVAL OF A MODIFICATION OF SECTIONS 13-303 AND 13-304 OF THE ZONING ORDINANCE FOR THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS TO THAT SHOWN ON THE SE PLAT.

Chairman Murphy: Is there a second?

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2015-MV-019, say aye.

Commissioners: Aye.

Chairman Murphy: Aye. Opposed?

Commissioners: Nay.

Chairman Murphy: It's the same division?

Commissioner de la Fe: Same division.

Commissioner Hart: Yeah.

Chairman Murphy: Okay, motion carries. Thank you very much.

(The motion to recommend denial of SE 2015-MV-019 fails by a vote of 4-6. The motion to recommend approval SE 2015-MV-019 carried by a vote of 6-4. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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RZ 2015-DR-009 - GULICK GROUP, INC.

(Start Verbatim Transcript)

Commissioner Ulfelder: Thank you, Mr. Chairman. I also last night announced that we would be deferring the public hearing this evening on the Gulick Group application, for a portion of the Hill's Nursery, and this located in Great Falls. So, therefore, I MOVE THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR RZ 2015-DR-009, GULICK GROUP, INC., TO A DATE CERTAIN OF JUNE 23RD, 2016.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Discussion? All those in favor of the motion to defer the public hearing on RZ 2015-DR-009, to a date certain of 6-23, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

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Commissioner Ulfelder: Earlier this evening I moved, we were scheduled to have a public hearing this evening on RZ 2015-DR-009, and I moved, and the Commission agreed, to move that hearing date to July – June 23rd. I would like to make a new motion in terms with a new date for moving that particular application and the hearing on that application. So, with that I MOVE THAT THE PLANNING COMMISSION – THAT THE PLANNING COMMISSION SCHEDULE THE PUBLIC HEARING ON RZ 2015-DR-009, ON JUNE 29TH, 2016.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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PA 2016-III-T1 – SHIRLEY GATE ROAD EXTENSION

(Start Verbatim Transcript)

Chairman Murphy: So that went from June 23rd, or June?

Commissioner Ulfelder: That went from June 29th, I said 23rd earlier, and I just moved it from June 23rd to June 29th.

Chairman Murphy: Okay and that leaves one application on the 23rd, which is mine.

Commissioner Ulfelder: Yes.

Chairman Murphy: Okay and I'm going to defer that. There is a public hearing scheduled on June 23rd, it is the Out-of-Turn Plan Amendment on the redesign of Shirley Gate Road and I WOULD MOVE THAT THE PUBLIC HEARING ON THIS APPLICATION III-T1 – PUBLIC HEARING 2016-III-T1, TO A DATE CERTAIN OF SEPTEMBER 14TH.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor of the motion to defer the public hearing on this item, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. AF 2016-SP-001 – CHARLES E. DYER AND JOANNE L. DYER LIVING TRUST
2. SE 2015-MV-032/RZ 2016-MV-011 – ARTIS SENIOR LIVING, LLC
3. FDP 2014-PR-021/FDP 2014-PR-021-02/RZ 2014-PR-021/PCA 92-P-001-12 – BIT INVESTMENTS FIFTY-TWO, LLC

This order was accepted without objection.

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AF 2016-SP-001 – CHARLES E. DYER AND JOANNE L. DYER LIVING TRUST – A&F District Appl. authorized by Chapter 115 (County Code), effective June 30, 1983 to permit to the creation of a local agricultural and forestal district. Located at 6501 Colchester Rd., Fairfax Station, 22039, on approx. 39.22 ac. of land zoned R-C, WS. Please call the Zoning Evaluation Division at 703-324-1290 after June 16, 2016 to obtain the AFDAC and Planning Commission recommendations. Tax Map 76-3 ((1)) 8. SPRINGFIELD DISTRICT. PUBLIC HEARING.

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Since the following case was in the Springfield District, Vice Chairman de la Fe assumed the chair.

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Commissioner Murphy asked that Chairman de la Fe ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be

waived, and the public hearing closed. No objections were expressed; therefore, Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on this case.

(Start Verbatim Transcript)

Commissioner Murphy: Thank you, Mr. Chairman. This is a straightforward application for 39 acres of land in the vicinity of Colchester Road and Clifton. I noticed there was one word in the staff report that said that this area was very historic in one time, it still is. But it was notorious and, in case no one knows what that means, when you go home this evening, google “Bunny Man Bridge.” Okay? And I – you may not sleep for the rest of the night but if you – if you google it, you’ll find out why this is a notorious area because of Bunny Man Bridge. So, therefore, this has gone before the Committee and they have recommended approval. I’d like to thank Mr. Lynskey for his efforts on our behalf and for sticking around knowing that I was going to approve his application. And there is really no need for him to be here. So I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE AF 2016-SP-001 AND AMEND APPENDIX X – F – OF THE COUNTY CODE TO ESTABLISH THE DYER LOCAL AGRICULTURAL AND FORESTAL DISTRICT FOR INITIAL EIGHT-YEAR TERM SUBJECT TO ORDINANCE PROVISIONS CONSISTENT WITH THOSE CONTAINED IN THE STAFF REPORT.

Commissioner Hart: Second.

Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Chairman de la Fe: Opposed? The motion carries unanimously.

(The motion carried 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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At the conclusion of the case, Chairman Murphy resumed the chair.

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RZ 2016-MV-011 - ARTIS SENIOR LIVING, LLC – Appl. to rezone from R-1 to R-2 to permit an assisted living facility with an overall Floor Area Ratio (FAR) of 0.17. Located on the N. side of Ox Rd. (Rt. 123) approx. 400 ft. E. of its intersection with Blue Steel Way, on approx. 5.29 ac. of land. Comp. Plan Rec: Residential 0.5-1 du/ac. Tax Map 106-2 ((1)) 8. (Concurrent with

SE 2015-MV-032.) MOUNT VERNON DISTRICT. PUBLIC HEARING.

SE 2015-MV-032 - ARTIS SENIOR LIVING, LLC – Appl. under Sects. 3-104 and 10-104 of the Zoning Ordinance to permit an assisted living facility and an increase in maximum permitted fence height. Located at 8911 Ox Rd., Lorton, 22079, on approx. 5.29 ac. of land zoned R-1. Tax Map 106-2 ((1)) 8. (Concurrent with RZ 2016-MV-011.) MOUNT VERNON DISTRICT. PUBLIC HEARING.

Evan Pritchard, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated May 19, 2016.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had three pending cases with Ms. Pritchard's law firm in which there were attorneys representing an adverse party, but indicated that it would not affect his ability to participate in this case.

Laura Arseneau, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that, due to the lack of a service drive, staff concluded that the subject application was not in harmony with the Comprehensive Plan or Zoning Ordinance regarding safe transportation methods. Therefore, staff recommended denial of application RZ 2016-MV-011; however, if it was the intent of the Board of Supervisors to approve this case, staff recommended the approval of the rezoning subject of the execution of Proffered Conditions dated May 16, 2016. Staff also recommended denial of application SE 2015-MV-032; however, it was an intent of the Board of Supervisors to approve this case, staff recommended approval of the proposed Development Conditions dated June 1, 2016, included in Appendix 2 of the staff report.

Responding to Commissioner Hart's question about the availability of the traffic light at the facility exit, Ms. Arseneau responded that there was none.

When Commissioner Hart asked staff if there was a significant delay to leave the facility during rush hour, Michael Davis, Site Analysis Section, Department of Transportation (DOT), responded that the specific circumstances of a possible delay were not examined by staff. He confirmed that the site did not have a signalized access point. Mr. Davis indicated that Route 123 carried a significant amount of traffic both northbound and southbound. He mentioned that a waiting time for a gap in traffic, especially during evening peak hours, could potentially be lengthy.

In response to Commissioner Hart's question as to whether the lack of a service drive represented a potential safety hazard, Mr. Davis explained that the DOT recommendation to connect a service drive was primarily driven by safety concerns.

Cathy Lewis, ZED, DPZ, confirmed Commissioner Hart's assumption that, according to the Zoning Ordinance provisions, the subject lot was required to have a service drive. She also noted that the applicant requested a waiver of the service drive which was not supported by staff.

Commissioner Sargeant indicated that a service drive exit point adjacent to the gas station fuel pumps would be a possible safety hazard. He noted that adding a traffic light would not alleviate the problem as the traffic flow would remain heavy due to the close proximity of the shopping center and church building. He concluded that the denial of the waiver would not improve the subject application.

Answering questions from Commissioner Flanagan, Ms. Lewis and Mr. Davis explained the following:

- The applicant requested a waiver of the service drive requirement;
- With the approval of the special exception for the gas station, an easement was established to allow a service drive connection to occur northward toward the subject property and beyond;
- The Planning Commission previously approved the church development which included an easement;
- Staff proposed an extension of the service drive to the church property front as well as to the shopping center in order to get between the neighboring properties without an exit to Route 123; and
- The sub connection to the shopping center would terminate the required service drive.

Mr. Pritchard indicated that the site was improved with a single family residence and provided a brief overview of the location. He noted that the application was in conformance with the Comprehensive Plan in terms of being under the maximum recommended height of 45 feet with the proposed 38.5 feet and the design fit in the context of the existing neighborhood properties, residential uses, and church building. He further indicated that the 3.76 acres or about 71 percent of the open space on the site was going to be preserved as forestal area. Mr. Pritchard mentioned that the applicant met with the Crosspointe Board of Trustees, seven neighboring homeowners, and the Healthcare Advisory Board who were all in support of the application. He noted that previously the Sunrise Development proposed a similar application where the service drive was connected to the church drive. Mr. Pritchard pointed out that they strongly felt that the service drive would potentially create traffic chaos with the Sunoco gas station and the shopping center located nearby. He pointed out that the applicant believed that the pedestrian access through the trail would be a better option. In conclusion, Mr. Pritchard said that the service drive would be a bad idea from a transportation safety standpoint and concurred with points made by Commissioner Flanagan.

Answering Commissioner Flanagan's question about whether it would be acceptable for the applicant to provide an easement across the property, Mr. Pritchard noted that their preference would be to not build an easement but they would agree to it if it was required by the Planning Commission and the Board.

In response to Commissioner Ulfelder question about the service drive, Mr. Pritchard mentioned the multiple traffic conflicts created between the traffic coming in from the service drive, and also pointed out that the service drive would be detrimental to the landscaping and screening along the front of the property.

Answering Commissioner Ulfelder's questions about the traffic flow, Kevin Fellin, Transportation Engineer, Wells and Associates, explained that, according to the Institute of Transportation Engineers Standards, the trip generation for the assisted living facility with eighty beds would be 218 trips in a twenty-four hour period. He added that fifteen trips would be generated during the morning peak hours and twenty-four trips during the evening peak hours with a general equal split of incoming and outgoing trips. He further said that the trip generation analysis made during Sunday church service hours revealed fifteen inbound and twenty outbound trips. Mr. Fellin concluded that constructing a service road in the function area of the gas station would be unsafe and was not recommend to their client.

Answering Commissioner Flanagan's questions, Mr. Pritchard explained the following:

- The Spring Hills Mount Vernon facility would be the closest similar facility to the Artis Senior Living facility; and
- The market research performed by Artis Senior Living, LLC indicated that the location of the subject facility was one of the highest in demand for the memory services in the country.

There being no listed speakers, Chairman Murphy called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this item.

(Start Verbatim Transcript)

Commissioner Flanagan: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF THE SUPERVISORS APPROVAL OF RZ 2016-MV-011 AND A GENERALIZED DEVELOPMENT PLAN SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED MAY 16, 2016 AND APPROVAL OF SE 2015-MV-033 (SIC) SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 1, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor... Oh, Mr. Ulfelder.

Commissioner Ulfelder: Yes, how does – where do we fit in my suggestion for...

Commissioner Flanagan: That's going to come up. I have another motion on that that takes into consideration that, the easement.

Commissioner Ulfelder: Okay, we're not going to amend the development conditions to include it as a condition?

Commissioner Flanagan: Well, I'm just going to ask for a waiver of the construction the lieu of. I thought I would ask for a waiver of the construction in lieu of.

Commissioner Ulfelder: In lieu of, pardon?

Commissioner Flanagan: An easement.

Commissioner Ulfelder: In – in – in lieu of... In other words, you're going to – you're going to condition the waiver on a – on an easement for the service drive.

Commissioner Flanagan: Right.

Commissioner Ulfelder: Okay.

Commissioner Flanagan: In my motion I had a waiver of the service drive requirement totally but I'm going to modify that too just excuse the – the construction adjustment for the easement.

Commissioner de la Fe: Mr. Chairman, a point of clarification.

Chairman Murphy: Yeah.

Commissioner de la Fe: You read the SE as MV-033, I think, rather than 32.

Commissioner Flanagan: Yes. Oh, 33. You're right, it is 32.

Commissioner de la Fe: Okay, thank you.

Commissioner Flanagan: It was a typo. Thank you, staff.

Chairman Murphy: All right. Ms. Strandlie, did you have a question?

Commissioner Strandlie: Yes. On the affordable bed issue. I do see it on – in the healthcare advisory document that they have confirmed their commitment to provide four percent and it is mentioned in the staff report. But I thought it needed to be someplace else. Sorry?

Cathy Lewis, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): It's development condition number 4.

Commissioner Strandlie: Development Condition number 4. Perhaps, I'm not looking at or having the right version cause I work through it.

Laura Arseneau, ZED, DPZ: There is – the development condition are in Appendix 2 of the staff report and most recent proffers were handed to you last week.

Commissioner Strandlie: Okay, then I have not that document. Thank you.

Ms. Arseneau: Okay.

Commissioner Strandlie: But it is in there?

Ms. Arseneau: It's – it's – it's in the staff report.

Commissioner Strandlie: It's in the staff report. Okay, thank you.

Ms. Arseneau: Yeah.

Commissioner Hart: Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Question. And I'm sorry to do this during the verbatim but if we – if we want to accomplish Mr. Ulfelder's objective of the easement. Is Mr. Flanagan's suggestion of heading it as part of the waiver instead of a development condition, the appropriate methodology to do that?

Ms. Lewis: I think it would be better to be in the development conditions but we could put it into the development conditions or the proffers between, you know, ask the applicant to proffer to that between now and the Board.

Commissioner Hart: Between now and the Board. It seemed a little awkward and I don't – I think we weren't get in right even if we...

Ms. Lewis: I – I think yeah, it would be cleaner to do it that way but ...

Commissioner Hart: Rather...

Ms. Lewis: We can accomplish that the other way as well.

Commissioner Hart: Rush through it tonight.

Chairman Murphy: All right. Mr. Pritchard, can you come up and declare your agreement with that?

Evan Pritchard, Walsh, Colucci, Lubeley & Walsh, P.C.: Yes, we will work with staff to come up with the development condition requiring the easement but not the construction for the service drive.

Chairman Murphy: Bless you. Further discussion of the motions? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2016-MV-011 and SE 2015-MV-032, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: I some additional...

Chairman Murphy: Yeah, please.

Commissioner Flanagan: I have several waivers to. I guess – I think I'll do them an omnibus. Okay?

Chairman Murphy: Please, I encourage it.

Commissioner Flanagan: I further MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE APPROVAL OF THE WAIVER OF SECTION 9-308 (3) FOR THE PROVISION OF A SIDE OR REAR SERVICE ENTRANCE FOR SERVICE VEHICLES; A WAIVER OF THE SECTION 9-308 (4) OF THE ZONING ORDINANCE FOR DIRECT ACCESS FROM AN ARTERIAL STREET; AND MODIFICATION OF THE SECTION 9-308 (5) OF THE ZONING ORDINANCE TO RUN A MEDICAL CARE BUILDING 61.6 FEET FROM THE NORTH PROPERTY LINE; AND MODIFICATION OF THE SECTION 10-104 TO INCREASE THE MAXIMUM PERMITTED FENCE HEIGHT, TO EIGHT FEET; MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS OF THE SECTION 13-303 AND 13-304 OF THE ZONING ORDINANCE IN FAVOR OF THE LANDSCAPING SHOWN ON THE GDP/SE PLAT; AND, LASTLY, WAIVER OF THE LOADING SPACE REQUIREMENT OF SECTION 11-203 OF THE ZONING ORDINANCE.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of those motions, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(Each motion carried by a vote of 10-0. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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RZ 2014-PR-021- BIT INVESTMENT FIFTY-TWO, LLC –
Appl. to rezone from C-3, HC to PTC, HC to permit mixed-use development with an overall Floor Area Ratio (FAR) of 2.59, including a maximum of 1,940 dwelling units. Located on the E.

and W. sides of Old Meadow Rd., approx. 1,500 ft. S. of its intersection with Dolley Madison Blvd., on approx. 16.74 ac. of land. Comp. Plan Rec: Residential, Mixed-Use, and Park/Open Space. Tax Maps 29-4 ((6)) A, B, 95C, 97C, 105, and 106. (Concurrent with PCA 92-P-001-12, FDP 2014-PR-021, and FDP 2014-PR-021-02.) PROVIDENCE DISTRICT. PUBLIC HEARING.

PCA 92-P-001-12 - BIT INVESTMENT FIFTY-TWO, LLC –
Appl. to amend the proffers for RZ 92-P-001 previously approved for office development with an overall Floor Area Ratio (FAR) of 0.65 to permit deletion of land area. Located on the E. and W. sides of Old Meadow Rd., approx. 1,500 ft. S. of its intersection with Dolley Madison Blvd., on approx. 16.74 ac. of land zoned C-3, HC. Comp. Plan Rec: Residential, Mixed-Use, and Park/Open Space. Tax Maps 29-4 ((6)) A, B, 95C, 97C, 105, and 106. (Concurrent with RZ 2014-PR-021, FDP 2014-PR-021, and FDP 2014-PR-021-02.) PROVIDENCE DISTRICT. PUBLIC HEARING.

FDP 2014-PR-021 - BIT INVESTMENT FIFTY-TWO, LLC –
Appl. to approve a final development plan for RZ 2014-PR-021 to permit multi-family, mixed-use, residential, and retail/service. Located on the S.W. quadrant of the intersection of Old Meadow Rd. and Old Meadow Ln., on approx. 6.25 ac. of land zoned PTC, HC. Tax Maps 29-4 ((6)) B and 95C. (Concurrent with RZ 2014-PR-021, PCA 92-P-001-12, and FDP 2014-PR-021-02.) PROVIDENCE DISTRICT. PUBLIC HEARING.

FDP 2014-PR-021-02 - BIT INVESTMENT FIFTY-TWO, LLC –
Appl. to approve a second final development plan for RZ 2014-PR-021 to permit multi-family, mixed-use, and residential. Located on the E. side of Old Meadow Rd., approx. 1,500 ft. S. of Dolley Madison Blvd., on approx. 2.62 ac. of land zoned PTC, HC. Tax Map 29-4 ((6)) 106. (Concurrent with RZ 2014-PR-021, PCA 92-P-001-12, and FDP 2014-PR-021.) PROVIDENCE DISTRICT. PUBLIC HEARING.

Mr. Pritchard, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated June 2, 2016.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had three pending cases with Ms. Pritchard's law firm in which there were attorneys representing an adverse party, but indicated that it would not affect his ability to participate in this case.

Commissioner Hart announced his intent to defer the decision only on the application to June 29, 2016.

Cathy Lewis, Zoning Evaluation Division (ZED), Department of Planning and Zoning, (DPZ) announced that this public hearing is the last for Ms. Suzanne Wright in the capacity of a Staff Coordinator since she had been promoted to Interpretations Branch Chief with the Department of Planning and Zoning.

Suzanne Wright, ZED, DPZ, presented the staff report, a copy of which is in the date file. Ms. Wright noted that staff found the applications were in harmony with the Comprehensive Plan and in conformance with the Zoning Ordinance and recommended approval of applications RZ 2014-PR-021/PCA 92-P-001-12/FDP 2014-PR-021/FDP 2014-PR-021-02 as well as the waivers and modifications listed in the Staff Report Addendum.

Commissioner Hart asked Ms. Wright to concisely summarize the existing disagreement between staff and the applicant. Ms. Wright said that the issue was related to the public facilities cash contributions to be provided by the applicant in regards to the building C/D, as depicted on Page 15 of the staff report. She further explained that the applicant had two construction alternatives planned for the building: the first option included a single construction (building C/D) and the second one provided for two separate towers (building C and building D). She noted that the applicant requested the cash contributions to be based on the maximum square footage of the alternative chosen for building C/D while staff would prefer to base it on the maximum square footage entitled in the Conceptual Development Plan.

Addressing Commissioner Hart's concerns based on citizen comments regarding the traffic issue on Old Meadows Road, Ms. Lewis explained that Old Meadow Road was previously adjacent to a private street which lead to Magarity Road that had been gated off and has since become a dead-end street. She noted that the inability to have direct access to Magarity Road presented an inconvenience for the residents who were able to access Route 123 from the Old Meadow Road. Ms. Lewis pointed out that intersection improvements were planned for Old Meadow Road and Route 123. She added that the approved plan would extend Colshire Meadow Drive to Anderson Road and the residents would then be able to access Route 123 either from Anderson Road or Magarity Road. She further noted that the traffic improvement plan also included the creation of an intersection between Colshire Meadow Drive and Route 123. She concluded that these improvements would provide the residents with some relief.

Mr. Pritchard began a slide presentation of the subject application and commended Ms. Wright for a thorough presentation and thanked the staff for their patience working through several iterations over the two-year time period. He explained that the applicant's intention was to take away much of the surface parking area and existing buildings on the site and replace them with the new street grid and public parks system of nearly five acres. Mr. Pritchard further noted that the applicant held productive meetings with the residents of the communities along Old Meadow Road and the McLean Citizens Association on multiple occasions. He added that the specific provisions were included in proffer 38 regarding the sidewalk access along Old Meadow Road as well as an opened lane of traffic in both directions throughout construction. Mr. Pritchard pointed out that the screen fencing would be installed and maintained in a proper condition.

Commissioner Hart asked Mr. Pritchard to explain the difference between the applicant's and staff's position on the remaining issue regarding building C/D. Mr. Pritchard explained that there was 320,000 to 365,000 square feet delta between the low-rise option in which C/D would be one building and a high-rise option in which they would be separate buildings. The proffer provision included a public facility cash contribution of 1.70 dollars per square foot for either the first or the second option. He indicated that the applicant's intention was to reconfirm the proffer commitment to make a contribution based on the size of the building that would actually be built.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Amy Tozzi, 1800 Old Meadow Road, Apartment 1501, McLean, provided a brief overview of the residential layout along Old Meadow Road. She noted that the neighboring communities were facing major challenges in terms of traffic congestion, degradation of Old Meadow Road and sidewalks, and extended periods of disruption to daily living. Ms. Tozzi urged the County planners to place an emphasis in the near future to the following:

- Construction of Lincoln Road eastbound from the Old Meadow Road to Magarity Road;
- Constructions of a pedestrian bicycle bridge from the Old Meadow Road to Tysons Corner; and
- Extension of paved trails to the McLean Metro Station via Scott's Run Nature Preserve.

She concluded by saying that the residents did not oppose the application but stressed the need for simultaneous redressing the dead-end status of Old Meadow Road in the face of the significant development.

Pindar Van Arman, 7621 Provincial Drive, McLean, said that as the Tysons Service District was created, which resulted in the fifteen percent tax assessment increase, the residents saw little of the transportation improvements that the tax was supposed to provide. By pointing to the graphic of Old Meadow Road, he mentioned that the intersection of Old Meadow Road and Route 123 is very congested and the traffic issue would be aggravated in conjunction with the planned development projects. He echoed the initiatives mentioned by the previous speaker and asked that they were prioritized, funded, and championed by the County in coordination with VDOT.

Answering Commissioner Ulfelder's question about the distance from the Colonies at McLean Community to the McLean Metro Station, Mr. Van Arman responded that it was less than a mile. A conversation ensued between Commissioner Ulfelder and Mr. Van Arman, in which Mr. Van Arman noted that the residents had taken advantage of the new Silver Line for their daily transportation; although, due to fear of traffic increase related to the Metro expansion, several communities closed their gates which resulted in Old Meadow Road becoming a cul-de-sac.

Michael Muse, 1808 Old Meadow Road, McLean, spoke in opposition to the previous speakers regarding the construction of the pedestrian bridge which would entail the removal of the

hundred-foot trees along the McLean community fence line as those trees represented an asset to the property value. Mr. Muse asked the Commissioners to pay attention to this matter and prevent the removal of old trees.

Sheila Bedell, 1808 Old Meadow Road, McLean, expressed concerns about the future construction. She pointed out that Old Meadow Road was not a cul-de-sac but a dead-end street that had no turn around point and represented the only egress point to Route 123. She highlighted the importance for a solution to the traffic issue in terms of vehicular egress alternatives.

A conversation ensued between Commissioner Ulfelder and Ms. Lewis about the grid of streets presented by staff, wherein Ms. Lewis clarified the options for traffic improvement which would become available in the near future.

Ms. Tozzi, 1800 Old Meadow Road, Apartment 1501, McLean, indicated that, according to the Dolley Madison Apartments at Tysons owner, no extension of Old Meadow Road to Magarity Road was planned on their property in the next fifteen to twenty years.

Mr. Pritchard presented closing comments and mentioned that the applicant prepared an exhibit to address the tree concern that had been previously shared with the staff.

In reply to questions from Commissioner Hurley, Mr. Pritchard stated that the CityLine, LLC proffers for Scotts Run Station South addressed the use of the fields. He added that the field scheduling would be made by the County and a storage facility for field equipment could potentially be provided. Mr. Pritchard deferred the question about the efficiency apartments to Matthew Robinson, MRP Realty, wherein Mr. Robinson indicated that less than five percent of the units were designed as studios and efficiencies.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore; Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on these cases.

(Start Verbatim Transcript)

Chairman Murphy: The public hearing is closed.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you, I apologize, it's ten after twelve and I did not bring donuts. I did not anticipate the length of the meeting. I want to thank the folks who came out tonight and the folks who submitted correspondence. We have some issues to review before we vote on this. I MOVE, Mr. Chairman, THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 92-P-001-12/RZ 2014-PR-021/FDP 2014-PR-021 AND FDP 2014-PR-021-2, TO A DATE CERTAIN OF JUNE 29, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to defer decision on these applications to a date certain of June 29th, with the -record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 9-0. Commissioner Strandlie was not present for the vote. Commissioners Hedetniemi and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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The meeting was adjourned at 12:12 a.m.

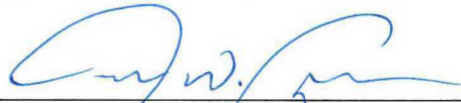
Peter F. Murphy, Chairman

James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Inna Kangarloo

Approved on: January 12, 2017



John W. Cooper, Clerk to the
Fairfax County Planning Commission